

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

JONI SMITH,

Plaintiff,

v.

**MICHAEL J. ASTRUE,
Commissioner of Social Security,**

Defendant.

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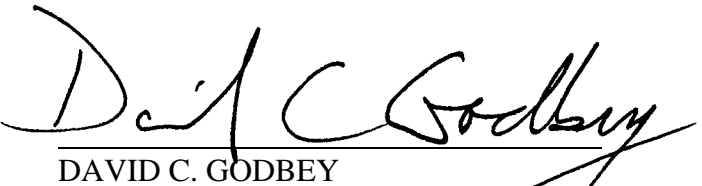
Civil Action No. 3:08-CV-1241-N (BH)

**ORDER ACCEPTING FINDINGS AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

After making an independent review of the pleadings, files and records in this case, and the Findings, Conclusions, and Recommendation of the of the United States Magistrate Judge, I am of the opinion that the Findings, Conclusions, and Recommendation of the Magistrate Judge are correct and are adopted as the Findings and Conclusions of the Court.

It is therefore **ORDERED** that the Findings, Conclusions, and Recommendation of the United States Magistrate Judge are adopted. Accordingly, Plaintiff's *Motion for Summary Judgment*, filed December 5, 2008, is **GRANTED** and the Commissioner's *Motion for Summary Judgment*, filed January 5, 2009, is **DENIED**. The final decision of the Commissioner is **REVERSED** and the case is **REMANDED** for reconsideration. On remand, the ALJ must rely on the testimony of a VE in his step 5 determination as to whether Plaintiff can perform other work despite her nonexertional impairments.

SIGNED May 1, 2009.


DAVID C. GODBEY
UNITED STATES DISTRICT JUDGE